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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,049	08/22/2003	Ernest L. Taylor	9926.003	1566

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EXAMINER

RODRIGUEZ, WILLIAM H

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,049

Applicant(s)

TAYLOR, ERNEST L. *en*

Examiner

William H. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, *“a sight glass (in claim 4); a drain (in claim 6); a motor (in claim 8); and a vessel mounted on a buoyant base (claim 10)”* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: *The specification does not mention “a buoyant base”. However, this element is recited in claim 10.* Appropriate correction is required.

Claim Objections

3. Claim 10 is objected to because of the following informalities:

The phrase “said chassis” in lines 3 and 5 should be replaced by the phrase --said buoyant base--. Appropriate correction is required.

Information Disclosure Statement

4. The references listed in a communication submitted by applicant on 8/22/03 have been considered and cited by examiner in PTO-892 form attached to this office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 11 is rejected under 35 U.S.C. 102(b) as being anticipated by **Vazin (U.S. 4,469,143)**.

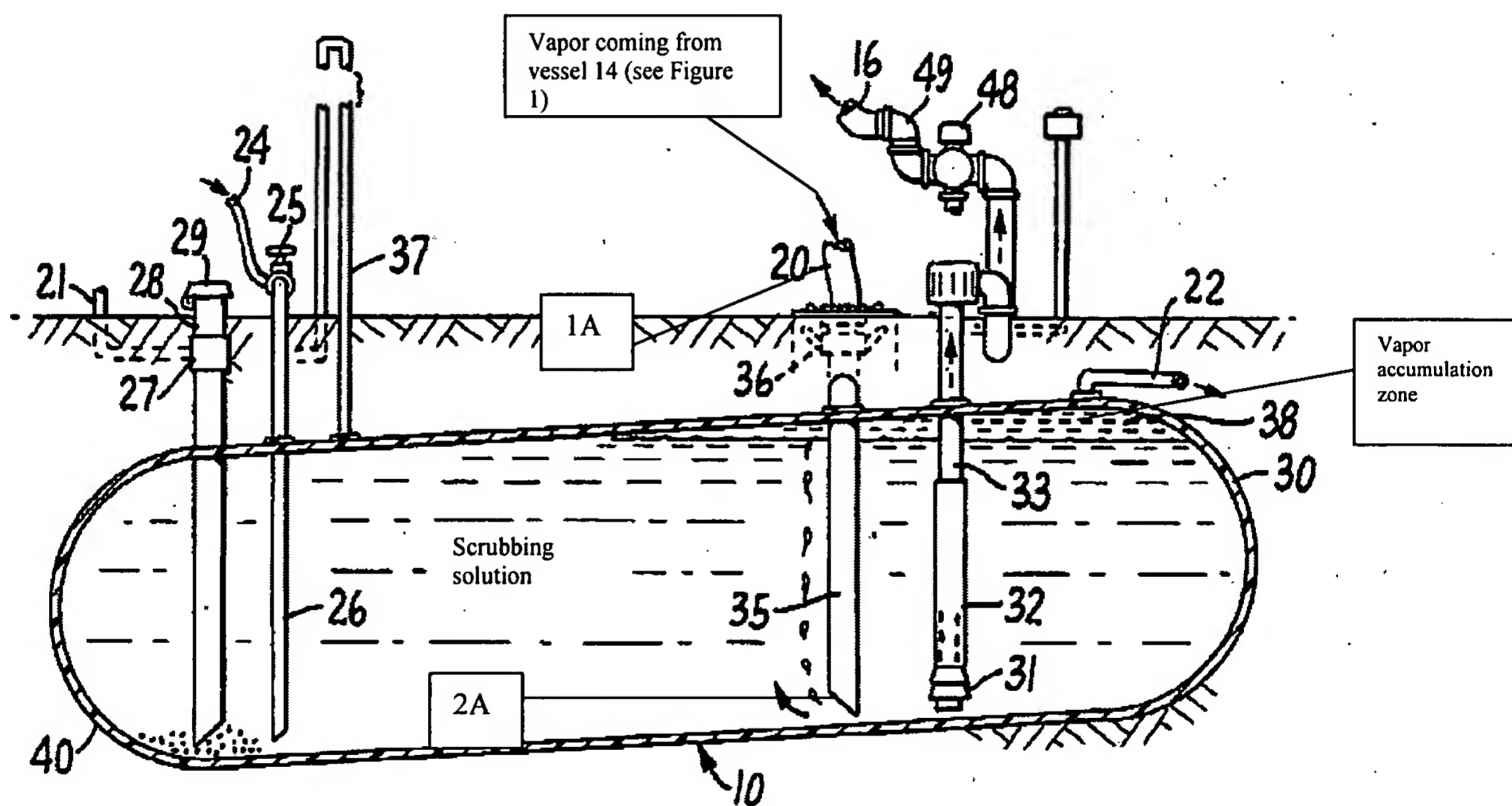


FIG. 2.

With respect to claim 1, **Vazin** teaches a vapor evacuation device for removing and scrubbing vapors from a vessel 14 comprising: a housing 10 configured to contain a scrubbing solution (water*), said housing substantially enclosing a fluid passageway 35, said fluid passageway having a first aperture 1A configured to permit the introduction of a fluid into said

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fluid passageway 35, said fluid passageway 35 further comprising a second aperture 2A positioned downstream from said first aperture 1A, whereby fluid entering said passageway 35 will flow from said first aperture towards said second aperture, said second aperture configured to provide fluid communication between said housing 10 and said fluid passageway. See particularly **Figure 2**; and column 4 lines 45-47, 56-60, 62-63 of Vazin.

*Water is a solution containing hydrogen, oxygen and natural minerals.

With respect to claim 11, **Vazin** teaches a method of evacuating and scrubbing vapors from a vessel 14 using a vapor evacuation device as described in claim 1, comprising: filling said housing 10 with said scrubbing solution, connecting said first aperture 1A to said vessel 14 whereby said vapor will flow through said fluid passageway 35 and through said second aperture 2A into said scrubbing solution. See particularly **Figure 2** of Vazin.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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7. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of **U.S. Patent No. 6,616,418 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claim 1 of the instant application is merely broader than claims 1 and 6 of the Taylor patent. Claim 1 of the instant application recites the following elements: a vessel, a housing, a fluid passageway, a first aperture, and a second aperture. While, claims 1 and 6 of the patent recite the following elements: a vessel, a housing, a fluid passageway, a first aperture, a second aperture, a third aperture, and a fluid connection. Thus, the elements recited by claim 1 of the instant application are contained within claims 1 and 6 of the patent. On the other hand, claims 1 and 6 of the patent are more specific because they have some features not present in the instant application. These features are: a fluid connection and a third aperture. Nevertheless, the more specific claims 1 and 6 of the patent'418 "anticipate" the broader claim 1 of the instant application.

8. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of **U.S. Patent No. 6,616,418 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other for similar reasons as mentioned above. Compare claim 1 of the instant application with claim 15 of the patent'418.

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9. The same analysis (as above) applies to claims 2-13 of the instant application. Compare claims 2-13 of the instant application with claims 15, 4, 5, 7, 8, 9, 10, 11 and 12 of the patent'418.

10. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of **U.S. Patent No. 6,616,418 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claim 14 of the instant application is merely broader than claim 15 of the Taylor patent. Claim 14 of the instant application recites the following elements: a vessel, a housing, a fluid passageway, a first aperture, a second aperture, and a third aperture. While, claim 15 of the patent recite the following elements: a vessel, a housing, a fluid passageway, a first aperture, a second aperture, a third aperture, and a mobile chassis. Thus, the elements recited by claim 14 of the instant application are contained within claim 15 of the patent. On the other hand, claim 15 of the patent is more specific because it has an additional feature not present in the instant application. This feature is: a mobile chassis. Nevertheless, the more specific claim 15 of the patent'418 "anticipates" the broader claim 14 of the instant application.

11. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of **U.S. Patent No. 6,616,418 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other

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for similar reasons as mentioned above. Compare claim 14 of the instant application with claims 1 and 6 of the patent'418.

12. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 42 of **U.S. Patent No. 6,786,700 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claim 1 of the instant application is merely broader than claim 42 of the Taylor patent. Claim 1 of the instant application recites the following elements: a vessel, a housing, a fluid passageway, a first aperture, and a second aperture. While, claim 42 of the patent recite the following elements: a vessel, a housing, a fluid passageway, a first aperture, a second aperture, and a third aperture. Thus, the elements recited by claim 1 of the instant application are contained within claim 42 of the patent. On the other hand, claim 42 of the patent is more specific because it has an additional feature not present in the instant application (a third aperture). Nevertheless, the more specific claim 42 of the patent'700 "anticipates" the broader claim 1 of the instant application.

13. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims: (1, 6); (10, 15); (18, 24); and (28, 33) of **U.S. Patent No. 6,786,700 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other for similar reasons as mentioned above. Compare claim 1 of

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the instant application with claims (1, 6); (10, 15); (18, 24); and (28, 33) respectively of the patent'700.

14. The same analysis (as above) applies to claims 2-13 of the instant application. Compare claims 2-13 of the instant application with claims 43, 45, 4, 8, 9, 3, (1, 6), (18, 24), (37, 40), 41 and 37 respectively of the patent'700.

15. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 42 of **U.S. Patent No. 6,786,700 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Claim 14 of the instant application recites the following elements: a vessel, a housing, a fluid passageway, a first aperture, and a second aperture. While, claim 42 of the patent recite the following elements: a vessel, a housing, a fluid passageway, a first aperture, a second aperture, and a third aperture. Thus, the elements recited by claim 14 of the instant application are contained within claim 42 of the patent. Therefore, claim 42 of the patent'700 "anticipates" claim 14 of the instant application.

16. Claim 14 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims: (1, 6); (10, 15); (18, 24); and (28, 33) of **U.S. Patent No. 6,786,700 (Taylor)**. Although the conflicting claims are not identical, they are not patentably distinct from each other for similar reasons as mentioned above. Compare claim 14

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of the instant application with claims (1, 6); (10, 15); (18, 24); and (28, 33) respectively of the patent'700.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


William H. Rodriguez
Examiner
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